

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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LINDA LOWMAN,

Plaintiff,

Case No. 3:12-cv-00592-MMD-WGC

v.

ORDER

STATE OF NEVADA,

Defendant.

(Magistrate's Report and Recommendation  
– dkt. no. 3;  
(Objection to the R&R – dkt. no. 6)

Before the Court is Magistrate Judge Cobb's Report and Recommendation ("R&R") regarding Plaintiff Linda Lowman's Complaint and Application to Proceed *In Forma Pauperis*. (Dkt. nos. 1, 1-1.) Lowman filed an objection to Magistrate Judge Cobb's Report and Recommendation on December 4, 2012.<sup>1</sup> (Dkt. no. 6.)

The Court has conducted a *de novo* review of the record in this case in accordance with 28 U.S.C. §636(b)(1)(B)–(C) and Local Rule IB 3-2, and determines that the Magistrate Judge's R&R should be accepted and adopted.

Lowman alleges that the State of Nevada sprayed insecticides or pesticides on or near her place of employment without notifying the employees. She appears to bring her claim under 42 U.S.C. § 1983.

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<sup>1</sup>It is unclear when Plaintiff received the R&R, but the docket demonstrates that it must have been after November 21, 2012, because the Clerk of the Court re-sent the R&R to Lowman's correct address on that date. The Clerk previously did not have Lowman's correct address on file. Because of this, Plaintiff's objections were timely. See LR IB 3-2 (requiring a party to file objections to an R&R within fourteen (14) days of receiving the R&R).

1 Magistrate Judge Cobb granted Lowman's request to proceed *in forma pauperis*.  
2 Judge Cobb dismissed Lowman's Complaint with prejudice because states are not  
3 persons under § 1983, and therefore Lowman has no cognizable cause of action against  
4 the only Defendant in this case, the State of Nevada. See *Will v. Michigan Dep't of State*  
5 *Police*, 491 U.S. 58, 65 (1989). Judge Cobb also determined that Lowman's Complaint  
6 did not meet the threshold standard of plausibility required by *Bell Atlantic Corp. v.*  
7 *Twombly*, 556 U.S. 662 (2009).

8 The Court agrees with Magistrate Judge Cobb that Plaintiff's Complaint must be  
9 dismissed with prejudice for the reasons stated in the R&R. (Dkt. no. 6.)

10 IT IS HEREBY ORDERED that Magistrate Judge Cobb's Report and  
11 Recommendation (dkt. no. 6) is ACCEPTED and ADOPTED. The Clerk of the Court is  
12 HEREBY ORDERED to close this case.

13 ENTERED THIS 14<sup>th</sup> day of May 2013.

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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE